

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL THRASHER,) CASE NO. C04-1257-MJP-MAT
Plaintiff,)
v.)
DAVID COGLAZIER, et al.,) ORDER DENYING PLAINTIFF'S
Defendants.) SECOND MOTION FOR
) APPOINTMENT OF COUNSEL

Plaintiff is a Washington state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. He has filed a second motion for appointment of counsel. (Dkt. #62). The court previously denied plaintiff's first motion for appointment of counsel. (Dkt. #30). Defendants have filed an opposition to plaintiff's second motion. (Dkt. #64). Having considered plaintiff's second motion for appointment of counsel, defendants' opposition, and the balance of the record, the court does hereby find and ORDER:

(1) Plaintiff's second motion for appointment of counsel (Dkt. #62) is DENIED. There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires

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01 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
02 articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789
03 F.2d at 1331.

04 In his second motion for appointment of counsel, plaintiff has neither presented new
05 arguments that demonstrate a likelihood of success on the merits nor shown that, in light of the
06 complexity of the legal issues involved, he has been unable to articulate his claims himself.
07 Accordingly, plaintiff has not demonstrated that this case involves exceptional circumstances that
08 warrant appointment of counsel.

09 (2) The Clerk is directed to send copies of this Order to plaintiff, counsel for
10 defendants, and to the Honorable Marsha J. Pechman.

11 DATED this 7th day of June, 2005.

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13 Mary Alice Theiler
14 United States Magistrate Judge

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